

1 IN THE UNITED STATES DISTRICT COURT FOR THE
 2 NORTHERN DISTRICT OF OKLAHOMA
 3
 4

5 W. A. DREW EDMONDSON, in his)
 6 capacity as ATTORNEY GENERAL)
 7 OF THE STATE OF OKLAHOMA and)
 8 OKLAHOMA SECRETARY OF THE)
 9 ENVIRONMENT C. MILES TOLBERT,)
 10 in his capacity as the)
 11 TRUSTEE FOR NATURAL RESOURCES)
 12 FOR THE STATE OF OKLAHOMA,)

13 Plaintiff,)

14 vs.)

15 4:05-CV-00329-TCK-SAJ

16 TYSON FOODS, INC., et al,)

17 Defendants.)

18 - - - - -

19 THE VIDEOTAPED DEPOSITION OF
 20 GORDON JOHNSON, PhD, produced as a witness on
 21 behalf of the Defendants in the above styled and
 22 numbered cause, taken on the 18th day of August,
 23 2008, in the City of Tulsa, County of Tulsa, State
 24 of Oklahoma, before me, Lisa A. Steinmeyer, a
 25 Certified Shorthand Reporter, duly certified under
 and by virtue of the laws of the State of Oklahoma.

1 **A** Yes, it can be.

2 **Q** Now, did your model consider the addition of
3 commercial fertilizer containing potassium?

4 **A** No. My model assumed that there would be no
5 nutrient limitations.

04:45PM

6 **Q** I'm handing you what I've marked as Exhibit 51
7 to your deposition. Are you marking on -- just a
8 second, sir. That's an exhibit.

9 **A** Oh, I can't mark on there?

10 **Q** No. That's an exhibit.

04:46PM

11 **A** Oh, sorry.

12 **Q** I don't want to throw cold water on your
13 enthusiasm but those are my exhibits.

14 **A** I think I'll remember it.

15 **Q** Okay. Exhibit 51 I've placed in front of you,
16 I don't expect that you will recognize the E-mail on
17 the front, but do you recognize the attachment?

04:46PM

18 **A** Yes.

19 **Q** What is it?

20 **A** The attachment is a revision of Figure 2 in my
21 expert report that includes the soil test phosphorus
22 data for the 2005 to 2007 period for Benton and
23 Washington Counties instead of the 2003 data that
24 was used in Figure 2.

04:46PM

25 **Q** All right. When did you complete this

04:47PM

1 spreadsheet?

2 **A** Well, I don't know exactly. I would have to
3 check the file but it's -- I would say maybe a month
4 or two ago.

5 **Q** When did you transmit it to someone on the 04:47PM
6 State's team, be it Mr. Nance or Mr. Garren or Mr.
7 Page?

8 **A** I don't think I ever did.

9 **Q** Well, you obviously got it somehow because he
10 mailed it to me. 04:48PM

11 **A** I'm sorry. I transmitted it to Bob Nance
12 yesterday.

13 **Q** Okay. So -- but it's been done a month or
14 more ago is your testimony?

15 **A** Yes. 04:48PM

16 **Q** All right, and it was -- all right. You
17 testified Mr. Nance received it yesterday and that
18 the first page of the exhibit is the E-mail that I
19 printed, my E-mail where I received it from Mr.
20 Nance at 3:03 p.m. yesterday, the day before your 04:48PM
21 deposition.

22 **A** Correct.

23 **Q** All right. The data that you used in this
24 revised spreadsheet, Exhibit 51, did you acquire
25 that data after May 13th, 2008? 04:49PM

1 **A** No, I don't believe so.

2 **Q** Okay. So the data -- are you just talking,
3 sir, about the Washington County and Benton County
4 publicly available soils data for 2007?

5 **A** For 2005, '6 and '7. 04:49PM

6 **Q** Okay. This spreadsheet -- let me back up and
7 ask a clear question so I can get a clear answer.
8 The soils data that was input into this model was
9 what?

10 **A** It was a representation of the soils data 04:49PM
11 obtained from the Arkansas public or University of
12 Arkansas lab for 2005, 2006 and 2007.

13 **Q** All right. You used the word representation
14 of the soils data. What does that mean?

15 **A** That means that the dataset was very 04:50PM
16 cumbersome to apply the model to all the values in
17 the dataset. In other words, I don't know. Might
18 have been 4,000 and so I selected -- well, I took
19 all the data and ranked it based on the phosphorus
20 soil test data, and then I numbered those 04:50PM

21 observations from one to ten and repeated that
22 numbering down the column for all of the soil test
23 data. Then I ranked that dataset based on those
24 values in the far left-hand column from one to ten.
25 So I got 10 percent of them to show up on the top 04:51PM